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OFFICE OF PETITIONS

SD3, LLC
25977 S.W. Canyon Creek Road, Suite G
WILSONVILLE, OR 97070

In re Application of :
Gass, et al. : DECISION ON APPLICATION
Application No. 09/929,234 : FOR PATENT TERM ADJUSTMENT
Filed: August 13, 2001 :
Atty. Dkt. No.: SDT 310 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.704(B)" filed February 2, 2006. This matter is being properly treated under 37 CFR 1.705(b) as an application patent term adjustment.

The application for patent term adjustment (PTA) under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The correct patent term adjustment (PTA) at the time of the allowance is 145 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the Notice of Allowance reflects an adjustment of 145 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from zero days, as indicated on the Determination of Patent Term Adjustment mailed November 3, 2005, to an adjustment of 287 days.

Applicants further argue that the Notice of Non-Compliant Amendment mailed January 12, 2005 was mailed in error on the grounds that the response submitted August 2, 2004 to the non-final Office action mailed May 3, 2004 was compliant. Applicants argue that amended claim one, submitted August 2, 2004, did not contain included multiple periods, as indicated in the Notice of Non-Complaint Amendment. Applicants further suggest that perhaps the amendment submitted August 2, 2004 via facsimile was not clear as a result of the facsimile transmission.

Thus, applicants argue that the reduction of 196 days in connection with the response to the Notice of Non-Compliant Amendment is in error and, further, that the application is entitled to an additional adjustment of 175 days for the Office's failure to issue

an Office action within four months of the date the response to the non-final Office action was received on August 2, 2004.

Applicants' arguments have been carefully considered and found convincing. A comparison of the amended claims submitted August 2, 2004 and February 14, 2005 would seem to indicate that, as argued by applicants, the deterioration of the text can likely be attributed to the mode of transmission, i.e., facsimile.

Accordingly, the reduction of 196 days has been corrected and an adjustment of 175 days entered.

Nonetheless, a further reduction of 139 days in accordance with 37 CFR 1.704(c)(8) can be attributed to applicants in connection with the Information Disclosure Statement (IDS) submitted December 19, 2004. The reduction began August 3, 2004, the day after the day that a reply to the non-final Office action was received, and ended December 19, 2004, the date that the IDS was submitted.

Furthermore, at the time of allowance, a reduction of 49 days in accordance with 37 CFR 1.704(c)(8) was entered in connection with the IDS submitted October 5, 2005. A review of the record reveals that an additional IDS was submitted October 8, 2005. Accordingly, the proper reduction is 52 days, rather than 49 days, in accordance with 37 CFR 1.704(c)(8) has been entered. The reduction began August 18, 2005, the day after the date that a reply to the non-final Office action was received, and ended October 8, 2005, the date that the IDS was submitted.

In summary, at the time of allowance, the application is entitled to an adjustment of 145 days[1].

Receipt is hereby acknowledged of the required Patent Term Adjustment application fee of $200.00.

The application file is being forwarded to the Office of Patent Publication for issuance of a patent.

[1] The adjustments for Office delay are as follows: 275 days in accordance with 37 CFR 1.702(a)(1) and 1.703(a)(2) in connection with the restriction requirement mailed July 15, 2003; 175 days in accordance with 37 CFR 1.702(a)(2) and 1.703(a)(2) in connection with the non-final Office mailed May 26, 2005. The reductions for applicants' failure to engage in reasonable efforts to conclude prosecution in accordance with 37 CFR 1.704(c)(8) are as follows: 30 days in connection with the IDS submitted August 22, 2003; 84 days in connection with the IDS submitted April 29, 2004; 139 days in connection with the IDS submitted December 19, 2004; and 52 days in connection with the IDS submitted October 8, 2005.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

PALM INTRANET

Day : Tuesday
Date: 5/1/2007
Time: 10:13:40

PTA Calculations for Application: 09/929234			
Application Filing Date:	08/13/2001	PTO Delay (PTO):	275
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	359
Post-Issue Petitions:	0	Total PTA (days):	145
PTO Delay Adjustment:	229		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
74	05/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		3	
73	05/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		139	
72	05/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	175		
71	05/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	196		
58	11/03/2005	MAIL NOTICE OF ALLOWANCE			
57	11/01/2005	ISSUE REVISION COMPLETED			
56	11/01/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	11/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
54	10/31/2005	NOTICE OF ALLOWABILITY			
52	10/08/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
51	10/05/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		49	48
50	10/09/2005	CASE DOCKETED TO EXAMINER IN GAU			
49	08/23/2005	DATE FORWARDED TO EXAMINER			
48	08/17/2005	RESPONSE AFTER NON-FINAL ACTION			
47	07/24/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
46	06/04/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
45	05/26/2005	MAIL NON-FINAL REJECTION			
44	09/06/2004	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
43	05/11/2005	NON-FINAL REJECTION			
42	12/19/2004	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
41	02/27/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			

40	03/01/2005	DATE FORWARDED TO EXAMINER			
39	02/14/2005	RESPONSE AFTER NON-FINAL ACTION		196	32
35	12/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	01/12/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
33	11/02/2004	DATE FORWARDED TO EXAMINER			
32.1	08/02/2004	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
32	08/02/2004	RESPONSE AFTER NON-FINAL ACTION			
31	08/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
30	08/02/2004	WORKFLOW INCOMING AMENDMENT IFW			
29	04/29/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		84	20
28	04/17/2004	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
27	05/03/2004	MAIL NON-FINAL REJECTION			
26	04/26/2004	NON-FINAL REJECTION			
25	03/10/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	03/25/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
23	02/09/2004	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
22	02/08/2004	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
21	02/17/2004	DATE FORWARDED TO EXAMINER			
20	02/05/2004	RESPONSE AFTER NON-FINAL ACTION			
19	11/16/2003	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
18	11/06/2003	MAIL NON-FINAL REJECTION			
17	11/03/2003	NON-FINAL REJECTION			
16	08/22/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		30	13
15	08/10/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	07/25/2003	DATE FORWARDED TO EXAMINER			
13	07/23/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
12	07/15/2003	MAIL RESTRICTION REQUIREMENT	275		-1
11	07/14/2003	REQUIREMENT FOR RESTRICTION / ELECTION			

10	04/27/2003	CASE DOCKETED TO EXAMINER IN GAU			
9	01/12/2003	CASE DOCKETED TO EXAMINER IN GAU			
8	09/16/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	05/01/2002	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
6	12/18/2001	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
5	01/26/2002	CASE DOCKETED TO EXAMINER IN GAU			
4	09/17/2001	APPLICATION DISPATCHED FROM OIPE			
3	09/14/2001	CORRESPONDENCE ADDRESS CHANGE			
2	08/21/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	08/13/2001	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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